

Art Unit: 1657

**ATTACHMENT TO INTERVIEW SUMMARY OCT 19, 2009 SER NO 10/527703**

Attorney Brian Lathrop, Reg No. 43740, contacted this Examiner pertaining to two issues:

1) Requested that the non-compliance submitted on July 3, 2008 be vacated since it is still of record according to Pair.

**The Non-compliance of July 03, 2008 has been vacated.**

2) Attorney requested that a change in the election in that claim 11 process be considered which reflects the preferred process for preparing the product which product claim of claim 14 may be considered for a rejoinder upon the allowance of the process claim. This issue would have to be carefully considered since Claim 11 was withdrawn and whether the process as amended for claim 1 if allowed based on the process conditions may be allowable over the art of record but the product claim still may not be considered to be allowable over the art of record.

This consideration would involve a careful check of the change in election and whether the original search would not involve an extensive new search as well as new issues not covered by the first office action which claims will be prepared and discussed in a follow-up interview which Interview Summary will be submitted with the next interview.

Examiner will consider any change which would expedite this application for allowance.

**ATTACHMENT OF SECOND Interview of October 22, 2009**

The proposed claims have been discussed in detail in the follow-up Interview of October 22, 2009 whereby Applicant requested the rejoinder of claim 11 as proposed amended. The proposal has been considered but the amended claim drawn to only a product and not a product by process would initiate new issues. **This Examiner has indicated that the process claims whereby the proposed amendment to claim 1 with at least one dependent claim would most likely render process claim allowable over the art of record which Applicant will be allowed to change election prior to a final rejection in this application to expedite a possible allowance whereas the proposed amended product claim [not a product by process] lacks enabling disclosure to the structure of the claimed product(s).**

Applicant will petition the Director to rejoin the proposed new amended claim(s) for consideration based on PCT Rules which this Examiner indicated that the record indicates that the claims lack unity of invention based on the 371 examination.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HERBERT J. LILLING whose telephone number is 571-272-0918. The examiner can normally be reached on WORK AT HOME MAXIFLEX.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JON WEBER can be reached on 571-272-0925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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First Interview Summary : October 19, 2009

Second Interview Summary: October 22, 2009

/HERBERT J LILLING/

Primary Examiner Art Unit 1657